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DEPT FOR EB/IFD/OIA JNHATCHER AND AMKAMBARA
DEPT ALSO AF/EPS, AF/E FOR BYODER
TREASURY FOR DO/JWALLACE
PASS TO USTR FOR WJACKSON

E.O. 12958: N/A

TAGS: [EINV](#) [EFIN](#) [ETRD](#) [ELAB](#) [KTDB](#) [OPIC](#) [PGOV](#) [USTR](#) [TZ](#)
SUBJECT: TANZANIA: INVESTMENT CLIMATE STATEMENT 2007

REF: 06 SECSTATE 178303

Following is the 2007 Investment Climate Statement (ICS) for Tanzania. The ICS has also been transmitted to ES/IFD/OIA via e-mail and included in Chapter 6 of the 2007 Country Commercial Guide for Tanzania.

A.1. Openness to Foreign Investment

The Government of Tanzania (GOT) has a favorable attitude toward FDI and made significant efforts to encourage foreign investments. Tanzania is ranked eleventh in Foreign Direct Investment (FDI) inflows as an investment destination in Africa, according to the United Nations Conference on Trade and Development (UNCTAD)'s World Investment Report 2006. There is no restriction in foreign exchange and foreign investors are not denied national treatment. The GOT has lent its support to an open investment regime, mobilization of private capital initiatives (PCI) and further liberalization of the financial sector in line with the World Bank's recommendations. An increased number of privatized public enterprises have been awarded to foreign investors.

The Tanzanian Investment Center (TIC), established by the Tanzanian Investment Act of 1997, is the focal point for all investors to answer inquiries and facilitate project start-ups. TIC continues to improve investment facilitation services, provide joint venture opportunities between local and foreign investors, and disseminate investment information.

The GOT demonstrated its pro-investment attitude in September 2006 when President Jakaya Kikwete led a 55-member trade and investment mission to the United States to promote Tanzania's investment opportunities. The mission included Government agencies and private sector investors from the manufacturing, tourism, transport, minerals and agriculture sectors.

Among investment and trade opportunities in Tanzania that remain underexploited are the energy sector, including coal reserves and natural gas deposits, and the transportation sector. The GOT accepts foreign investment in Built, Operate and Transfer (BOT) projects and has launched a concession system aimed at attracting foreign investors to build infrastructure. Investment Tax Incentives are stable and predictable.

Land ownership remains restrictive in Tanzania. Occupation of land by non-citizens is restricted to land for investment purposes regardless of the sector. Under the 1990 Land Act, however, a foreign investor may occupy land up to 99 years through derivatives rights.

In February 2005, the GOT established the Better Regulation Unit (BRU) to manage the implementation of the Business Environment Strengthening for Tanzania (BEST) program. In June 2006, Tanzanian Parliament passed a law to establish Special Economic Zones (SEZs) to augment investments in the light industry, agro-processing industry and agriculture sectors. Green field foreign direct investments are allowed through this SEZ legislation. The GOT continues to promote Export Processing Zones (EPZ) to attract investments in agribusiness, textiles and electronics and Spatial Development Initiatives (SDI). The EPZ are tax free zones.

Investments on the Dar es Salaam Stock Exchange (DSE) are open to foreign investors, but capped at 60 percent. Foreign investors are barred from participating in government securities. The financial sector has expanded with an increase in foreign affiliated financial institutions and banks operating in Tanzania. As of December 2005, a total of 29 Commercial Banks were licensed and operating in Tanzania, 14 of which are foreign affiliated banks. Competition among these foreign commercial banks has resulted in significant improvement in the efficiency and quality of financial services provision.

A.2 Conversion and Transfer Policies

Regulations permit unconditional transfers through any authorized bank in freely convertible currency of net profits, repayment of foreign loans, royalties, fees charged for foreign technology and remittance of proceeds. The only official ceiling on transfers of foreign currency is on cash carried by individuals traveling abroad, which cannot exceed US\$ 10,000 over a period of forty days. Tanzania occasionally experiences shortages of foreign exchange, but this problem has been greatly eased by the growth of bureau de changes returns. Bureaucratic hurdles continue to impact the length of time it takes to process and effect a transfer, which can range from days to weeks.

A.3 Expropriation and Compensation

The GOT may expropriate property only for the purpose of national interest and after due process. The Tanzanian Investment Law guarantees:

Payment of fair, adequate and prompt compensation;

A right of access to the Court or a right to arbitration for the determination of the investor's interest or right and the amount of compensation;

Any compensation payable under this section shall be paid promptly and authorization for its repatriation in convertible currency, where applicable, shall be issued.

GOT authorities do not discriminate against U.S. investments, companies or representatives in expropriation. Since 1985, the Government of Tanzania has not expropriated any foreign investments.

A.4. Dispute Settlement

Tanzania is a member of both International Center for the Settlement of Investment Disputes (ICSID) and the Multilateral Investment Guarantee Agency (MIGA). The regulations maintain that a dispute between a foreign investor and the Center which is not settled through negotiations may be submitted to arbitration:

In accordance with arbitration laws for investors;

In accordance with the rules of procedure for arbitration of the International Center for the

Settlement of Investment Disputes; or

Within the framework of any bilateral or multilateral agreement on investment protection agreed to by the GOT and the country of the investor.

A.5 Performance Requirements and Incentives

The GOT uses Trade-related Investment Measures (TRIMs) to promote development objectives, encourage investments in line with national priorities to attract and regulate foreign investment. Trade development instruments that Tanzania has adopted include Export Processing Zones (EPZs); Investment Code and Rules; Export Development/Promotion and Export Facilitation.

The Export Processing Zones (EPZ) are open to both domestic and foreign investors. The 2006 EPZ Act should stimulate export-oriented economic activities and encourage the acquisition of appropriate technology and skills. The EPZ law eliminates the initial investments in infrastructure and limits capital investments to machinery and equipment. The law also stipulates that more than 20 percent of the goods, which are subject to exemption from duties and taxes within EPZ, can be taken out of the zone. This is an interim measure to compensate investors for economic distortions pending the emergence of a more efficient market system.

The Investment Code, as a trade policy instrument, compensates works for distortions which impede the flow of foreign investments due to market imperfections. The Investment Code in Tanzania is a necessary interim instrument for stimulating both foreign and domestic investments especially in agriculture and industry (where the level of domestic investments is still low), while initiating measures for strengthening the enabling business environment and working for the emergence of a vibrant market economy. In sum, Tanzania offers a well-balanced package of investment benefits and incentives that are applied uniformly to all investors (domestic and foreign investors):

Zero Custom Duty and deferred VAT on capital goods for investments in sectors such as mining, export processing zones, infrastructure, road construction, bridges, railways, airports, generation of electricity, telecommunications and water services.

100% Capital allowance deduction in the years of income for the above mentioned types of investments.

No remittance restrictions. The Government does not restrict the right of a foreign investor to repatriate returns from an investment.

Investments in Tanzania are guaranteed against nationalization and expropriation. Any dispute arising between the Government and investors can be settled through negotiations or may be submitted for arbitration before the international organizations.

Allowing interest deduction on capital loans; removal of the 5-year limit for carrying forward losses of investors.

Five percent Customs Duty and VAT tax deferral on capital goods for priority sectors including livestock, aviation, commercial buildings, commercial development and micro finance banks, export oriented projects, geographical special development areas, human resources development, manufacturing, natural resources including fisheries, rehabilitation and expansion projects, tourism and tour operators, transport, radio and television broadcasting.

The Zanzibar Investment Promotion Agency (ZIPA) and the Zanzibar Free Economic Zones Authority (ZAFREZA) offer roughly equivalent incentives as those offered by the

Mainland's TIC and EPZ policies.

A.6. Right to Private Ownership and Establishment

Tanzania observes the right of foreign and domestic private entities to establish and own business enterprises and engage in legal forms of remunerative activity. (prohibited). The Business Registration and Licensing Act provides for licensing for business operations. It provides the right to freely establish private entities; to own property both movable and immovable; to acquire and dispose off property including interest in business enterprises and intellectual property. To register a company or a business enterprise in Tanzania is a right of those who wish to associate and freely form themselves into a company pursuant to the existing company laws.

Tanzania is still in transition from a largely public sector economy to one in which the private sector is taking the leading role.

Under Tanzanian law, occupation of land by non-citizens is restricted to lands for investment purposes under the Tanzania Investment Act 1997 and the revised new Land Act 1999.

Land in Tanzania is a government property and citizens or non-citizens only leases the land from the government for 33, 66, or 99 years depending on the nature of the investment. The law does not allow individual Tanzanians to sell land to foreigners. Foreigners can only buy land in Tanzania through TIC.

A.7. Protection of Property Rights

Movable Property and Land Rights: Secured interests in property, both movable and real, are recognized and enforced under different laws in Tanzania. There is no one comprehensive law to secure property rights.

The concept of mortgage exists and the Ministry of Lands and Human Settlements Development handles registration of mortgages and rights of occupancies. The Office of the Registrar of Titles is responsible for issuing titles and registering mortgage deeds. Title deeds are now recognized as mortgage for securing loans from banks and upon failure to pay back the loans the banks can sell an attached plot.

Intellectual Property Rights: Adherence to key international agreements on intellectual property rights in Tanzania began only in recent years. In 1999, Tanzania passed the Copyright and Neighboring Rights Act Number 7 of 1999, the current legislation in Tanzania addressing the protection of intellectual property rights (IPR) and protection for expressions of folklore. This legislation conforms to international copyright and property rights conventions and provides adequate protection for: intellectual property, patents, copyrights, trademarks and trade secrets. This is one of the steps Tanzania has taken to implement and enforce the WTO Trade Related aspects of Intellectual Property Rights (TRIPS). This law provides one of the means under which Tanzanians and foreign nationals may secure, exercise, and enforce exclusive intellectual property rights. The Act also establishes the Copyrights Society of Tanzania (COSOTA) which has the duty and powers to promote and enforce these rights, collect and distribute royalties on behalf of its members, maintain registers of works, productions and association of its members, search to identify and publicize rights of owners and defend them.

The establishment of both the Commercial Court of Tanzania (in 1999) and a special Land Court (under section 167 of Lands Ordinance number 4 of 1999), as special divisions of the High Court, has been a tremendous step towards protection and effective enforcement of property rights.

The Commercial Court deals with efficient litigation of commercial cases including those related to infringements of IPR and trade in counterfeit and pirated goods. Several

cases have already been handled and determined at these high court divisions.

Tanzania has not yet signed or ratified the WIPO internet treaties.

A.8. Transparency of the Regulatory System

The GOT has made progress in formulating policies and effective laws to foster competition. Tanzania has enacted three laws to govern competition and regulate economic activity: Fair Trade Practices Act 1994; Energy and Water Utilities Regulatory Act (EWURA) 2001; and Surface and Marine Transport Regulatory Act (SUMATRA) 2001. The GOT is expediting the implementation of Competition Law under the co-ordination of the Fair Commission for Trade and related regulatory institutions and promotes consumer protection through broad-based public awareness on consumer's rights and obligations.

The current institutionalization of the public-private sector dialogue through various forums such the Investors Round Table (IRT) process, ensures that the bureaucratic hurdles hindering private investments are addressed. Since the adoption of the IRT process in July 2002, Government Ministries, Departments and Agencies have broadened reforms. The IRT serves as an advisory board on best practices in trade and investment to the top national leadership.

Tanzania is implementing a taxpayer's Charter that enables taxpayers to complain against problems or malpractice within the Tanzania Revenue Authority (TRA) officers. The tax policy reform agenda includes abolition of nuisance taxes, harmonization of regulatory framework, clear incentive regime and gradual reduction in rate structure. The GOT has broadened tax incentives and incorporated them in the relevant tax laws to attract more investments. The current tax policy does not impede or distort investment.

The GOT has established a Law Reform Commission (LRC) to take and keep under review laws and regulations, and to examine the legal and regulatory requirements relating to trade and investments. The GOT is also modernizing business-licensing regime to reduce impediments to investment. The Tanzania Investment Center has become a 'one-stop shop' that provides fast track assistance to obtain approvals and permits such as work permits,

industrial license and trading licenses.

The judicial system continues to function slowly and imperfectly and is easily influenced by privileged individuals. These factors increase the cost and difficulty of doing business in Tanzania. In order to overcome shortfalls in the judicial system, the GOT is adopting anti-corruption measures and legal reforms to reduce bureaucratic snags and redundant laws and regulations.

A.9. Efficient Capital Markets and Portfolio Investment

The Capital Markets and Securities Authority (CMSA) Act of 1994 facilitates the free flow of capital or financial resources to support the product and factor markets. Currently the CMSA has opened the Dar es Salaam Stock Exchange (DSE) to foreigners. The DSE improves access to medium and long term capital, and concurrently promotes a wider ownership of stocks and other equities. Corporate enterprises can recapitalize and grow when listed on DSE. Individuals can invest in shares and gain profitable returns; the maximum limit for foreign participation is 60 percent. Foreigners are not allowed to participate in government securities.

Foreign investors can get credit on the local market for capital injection within the country and for importation of capital goods for use within the country. While credit is allocated on market terms, it has been uneconomical to

borrow from local sources/commercial banks due to high interest rates. Bank lending rates range from 14 percent to 24 percent for ordinary borrowers. Corporate borrowers can negotiate lower rates. The Multilateral Investment Guarantee Agency (MIGA)'s Guarantees against political risk, International Finance Corporation (IFC) facilities, U.S. Exim Bank are available for financing projects.

The financial sector has expanded with a significant increase in the number of foreign affiliated financial institutions and banks operating in Tanzania. By December 2005, there was a total of 29 Commercial Banks licensed and operating in Tanzania out of which 14 are foreign affiliated banks. The private sector players have access to a variety of commercial credit instruments including documentary credits (letters of credits), overdrafts, term loans, and guarantees.

The Central Bank in Tanzania (Bank of Tanzania) administers and provides special export credit guarantees from which joint venture initiatives between local and foreign investors can benefit. In November 2006, EXIM Bank (Tanzania) Ltd obtained a new credit line from PROPARCO, the private sector arm of the AGENCE FRANCAISE DE DEVELOPMENT (AFD), the official French Development Institution. This line increases EXIM Bank's capacity to support long-term foreign currency lending both in Euros and US dollars to SMEs and corporates. In Tanzania, PROPARCO's operations represent a total of USD\$ 36.0 million, mainly to banks, the tea and manufacturing sectors.

Foreign investors can open accounts and make deposits in registered private commercial banks. Interest earned by non-residents or foreign investors from deposits in banks registered by the Central Bank of Tanzania is exempt from income tax, in accordance with the Income Tax Act 2004. Foreign exchange regulations have been eliminated to allow an enabling environment to attract investors and simplify international transactions. Profits, dividends and capital can be readily repatriated. Several venture capitals have been established to meet the demand for equity injections into growing businesses.

The Banking and Financial Institution Act 2006 established a Credit Reference Bureau and permits banks and financial institutions to release information to licensed reference bureaus in accordance with regulations and allows credit reference bureaus to provide to any person, upon legitimate business request, a credit report.

International reserves at the Central Bank (Bank of Tanzania) stood at 1.5 billion US dollars, which is the highest for over 30 years and equivalent to seven months of imports. This has helped BOT to intervene whenever minor fluctuations have led to a slight depreciation of the Tanzanian shilling.

A.10. Political Violence

Tanzania is one of the most politically stable countries in Africa and the prospects for serious and sustained violence are very low. Since gaining independence, Tanzanian has enjoyed a remarkable degree of peace and stability. In 1992, the constitution was amended to allow for multiple political parties; in 1995, the first multi-party election took place.

As the country underwent the transition from a socialist to a democratic entity, beginning 1992, occasional conflicts took place, particularly during election campaigns. In 2001, demonstrators clashed with police on Pemba (Zanzibar) and several persons were killed. However, the 2005 general elections were primarily peaceful and marked by an absence of major violence. In January 2007, the two main political parties on Zanzibar opened a dialogue and most observers expect that further clashes on Zanzibar are unlikely; the chance for conflict on the Mainland remains remote.

A.11.a Corruption

Corruption is one of the areas of major concern encountered by foreign investors. The administration of President Kikwete, who took office in December 2005, has made the fight against corruption one of its priority areas. While giving or receiving a bribe (including bribes to a foreign official) is a criminal offense in Tanzania, the enforcement of laws, regulations and penalties to combat corruption has overall been largely ineffective. Areas where corruption persists include government procurement, privatization, taxation, ports, and customs clearance.

In 2004-05, the GOT took measures to strengthen good governance and accountability in social services delivery under the National Anti-Corruption Strategy (NACSAP). Tanzania has in place law and regulations to combat corruption. In early 2007, the Ministry of Finance will introduce amendments to the anti-corruption law to strengthen the institutions that fight graft, particularly the Prevention of Corruption Bureau (PCB). These amendments will give the PCB more powers to search, arrest, investigate and prosecute.

While Transparency International (TI) has consistently rated Tanzania as one of the worst countries in the world for corrupt business practices, TI's 2006 Corruption Perceptions Index (CPI) showed slight improvement in Tanzania's anti-bribery activities. (Note: The CPI score tracks perceptions of corruption seen by business and country analysts, ranging from zero as highly corrupt, to 10, not corrupt). CPI showed Tanzania edging up from 1.9 points in 1999 to 2.5 in 2006.

A World Bank survey conducted in 2004 places Tanzania as one of the better performers in anti-corruption efforts among African countries from 1996 to 2004.

A.11.b Bilateral Investment Agreements

Currently, the United States of America and Tanzania do not have a bilateral investment agreement.

A.11.c OPIC and Other Investment Insurance Programs

The U.S. Overseas Private Investment Corporation's (OPIC) program is available to citizens of the United States; corporations, partnerships or other associations created under the laws of the United States; to foreign corporations at least 95 percent owned by U.S. investors; and to foreign entities that are 100 percent U.S.-owned.

OPIC signed an incentive agreement with the GOT in December 1996. While the number of U.S. subsidiaries and affiliated companies that could qualify for OPIC financing remains small, a few companies have used OPIC programs in Tanzania. OPIC insurance products cover three political risks:

- Currency Inconvertibility - deterioration in the investor's ability to convert profits, debt service and other investment returns from local currency into U.S. Dollars and to transfer those U.S. Dollars out of host country.

- Expropriation - loss of an investment due to expropriation, nationalization or confiscation by the host government; and

- Political Violence - loss of assets or income due to war, revolution, insurrection or politically motivated civil strife, terrorism and sabotage.

Tanzania is an active member of the Multilateral Investment Guarantee Agency (MIGA), a member of the World Bank Group, that promotes foreign direct investment in developing countries by offering political risk insurance (guarantees) to investors and lenders, and by providing technical assistance to help developing countries attract and retain foreign investment.

The Export-Import Bank (Ex-Im Bank) of the United States, the official export credit agency of the United States, supports in Tanzania the purchases of U.S. goods and services by creditworthy Tanzanian buyers that cannot obtain credit through traditional trade finance sources. The agency offers export credit insurance and guarantees of commercial loans. Ex-Im Bank helps U.S. companies sustain and create jobs by financing U.S. exports. The Ex-Im Bank has established a cooperative agreement with the EXIM Bank of Tanzania Limited to facilitate access to guarantees by investors within Tanzania.

Tanzania is also a member of the International Center for Settlement of Investment Disputes (ICSID). Investments in Tanzania are guaranteed against nationalization and expropriation.

A.11.d. Labor

Private companies can hire or fire employees whose performance is not desirable. The limited availability of skilled labor remains one of the major concerns that need policy intervention. There are no legal requirements to use specific employment agencies for recruitment and no imposed conditions on employment of host country nationals. The applicable labor laws are the Employment Ordinance Act CAP.366; Security of Employment Act CAP 574 No. 62; Workmen's Compensation Ordinance CAP 263; and Severance Allowance Act CAP 487 No.47 of 1962.

The labor and immigration formalities allow foreign investors to recruit up to 5 expatriates; more work permits can be granted on meeting specified conditions.

As an incentive under the EPZ Act, the GOT can provide work permits for management and technical staff when these skills are unavailable locally. The number of such personnel will be determined in consultation with the Ministry of Labor.

Unskilled labor in Tanzania is plentiful and inexpensive. While there continues to be a deficit of skilled labor, the number of university graduates, especially in business management and IT, is growing. However, many foreign investors find that local labor is not sufficient to fill management and administrative positions.

A.11.e Foreign Trade Zones/Free Trade Zones

Refer to EPZ information above (Section A.12). Efforts are progressing to make Zanzibar Port a free port. In addition, free economic zones have been established in three areas of Pemba and Zanzibar. Tanga and Kigoma ports will also soon become free trade zones.

A.11.f Foreign Direct Investment Statistics

Foreign Direct Investment Total Flows (USD million):*
YmAX"lpQ(8}Q94d6Q^6#RTQk>3QQ,h"Tanzania (BOT)

The FDI has been principally in mining, manufacturing, tourism, construction and transportation sectors. In 2005, the value of FDI decreased to US\$325.0 million from US\$469.9 million in 2004. Among other factors, this reduction was due to decreased investment in the mining sector. RETZER